# CHAPTER 1088 Litter Prevention and Control

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# **CROSS REFERENCES**

Virginia Waste Management Act - see Code of Va. § 10.1-1400 et seq.

Summons for violation of litter control ordinances - see Code of Va. § 15.2-733

Locality may provide for removal of trash - see Code of Va. § 15.2-901

Dumping trash, companion animals, etc., on highway, right-of-way or private property - see Code of Va. § 33.1-346

Construction, maintenance and loading must prevent escape of contents; load covers - see Code of Va. § 46.2-1156

Casting garbage, etc., into waters - see Code of Va. § 62.1-194

Solid waste management facilities - see S.U. & P.S. 1080

Solid waste storage - see S.U. & P.S. Ch. 1082

Solid waste collection and transportation - see S.U. & P.S. Ch. 1084.14

#### 1088.01 SHORT TITLE.

This chapter shall be known and may be cited as the "Loudoun County Litter Prevention and Control Ordinance."

(Ord. 04-17. Passed 12-14-04.)

#### 1088.02 PURPOSE.

It is the purpose of this chapter to accomplish litter prevention and control throughout Loudoun County by requiring the collection of litter and declaring certain acts that cause proliferation and accumulation of litter to be unlawful and providing penalties for violations.

(Ord. 04-17. Passed 12-14-04.)

#### 1088.03 DEFINITIONS.

The following words and terms, when used in this Chapter, shall for the purpose of this Chapter, have the following meanings ascribed to them in this section:

- (1) "Abatement cost" means the County's cost for labor, equipment, and supplies for, or the contract price of, and any charges to, the County, with respect to the removal and disposal of litter, garbage, rubbish, or refuse from a property.
- (2) "Construction site" means any residential, commercial, industrial or other area, lot or site at which construction or demolition of any type is conducted, including roads, at buildings, and at all other places actively being constructed, demolished, renovated, or repaired.
- (3) "Construction waste" means solid waste that is produced or generated during construction, demolition, remodeling, or repair of pavements, houses, commercial buildings, and other structures. Construction wastes include, but are not limited to lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, paving materials, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids and garbage are not construction wastes.
- (4) "Discard" means to abandon, dispose of, burn, incinerate, accumulate, store or treat before or instead of being abandoned, disposed of, burned or incinerated.
- (5) "Discarded material" means a material that is abandoned, disposed of, burned, incinerated, accumulated, stored or treated before or instead of being abandoned, disposed of, burned or incinerated.
- (6) "Dispose" means to discharge, deposit, inject, dump, spill, leak or placement of any solid waste into or on any land or water so that such solid waste or any constituent of it may enter the environment or be emitted into the air or discharged into any waters.
- (7) "Garbage" means readily putrescible discarded materials composed of animal, vegetable, or other organic matter.
- (8) "Litter" means any man-made material that, if thrown, discarded, or disposed as prohibited by this chapter, may create a danger to public health, safety, or welfare or degrades the environment of the County. "Litter" shall include, but is not limited to, any garbage, trash, refuse, rubbish, newspaper, magazine, glass, metal, plastic or paper container, construction waste, or any discarded object likely to injure any person, create a traffic hazard, or degrade the environment.
- (9) "Person" means any individual, corporation, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary, representative, or group of individuals or entities of any kind.
- (10) "Receptacle" means a container that is specifically designed, constructed, and placed for use as a depository for litter or solid waste.
- (11) "Refuse" means all solid waste products having the character of solids rather than liquids and that are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up of spills or contamination, or other discarded materials.

- (12) "Rubbish" means combustible or slowly putrescible discarded materials, which include but are not limited to trees, wood, leaves, trimmings from shrubs or trees, printed matter, plastic and paper products, grass, rags, and other combustible or slowly putrescible materials not included under the term "garbage."
- (13) "Solid waste" or "waste" means any garbage, refuse, rubbish, trash, or other discarded material, but does not include solid or dissolved materials in domestic sewage, solid or dissolved materials in irrigation return flows, industrial discharges, or special nuclear or by-product materials.
- (14) "Trash" means combustible and noncombustible discarded materials and is used interchangeably with the term "rubbish". (Ord. 04-17. Passed 12-14-04.)

#### 1088.04 ADMINISTRATION AND ENFORCEMENT.

The Director of Solid Waste Management, or his or her agent, shall be responsible for the administration of this chapter and shall have the authority to enforce compliance through the use of civil and criminal penalties as authorized by this chapter. Further, any law enforcement officer, fire marshal, or any assistant fire inspector, or sworn special police officer is authorized and shall have the authority to enforce all sections of this chapter.

(Ord. 04-17. Passed 12-14-04.)

# 1088.05 UNLAWFUL DISPOSAL OF LITTER.

- (a) <u>General Restrictions</u>. No person shall drop, cast, sweep, deposit, discard, or otherwise dispose of any litter in or upon any exterior public or exterior private property within the County including but not restricted to any street, sidewalk, park, body of water, or vacant or occupied lot, except by placement in a proper receptacle or in an area designated and approved by the County as a permitted disposal site.
- (b) <u>Rebuttable Presumption</u>. When a violation of the provisions of this section has been observed by any person, and the litter has been ejected or removed from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting or disposing of such litter, provided however, that such presumption shall be rebuttable by competent evidence.
- (c) Ownership Inference. In a prosecution for violation of this section, evidence that litter was found upon a road, street, or other public property and that such litter contained articles of mail or other documents on which appear the name and address of a person and that such articles or documents were found distributed throughout such litter shall be prima facie evidence that the litter is the property of the person whose name and address appear on such articles or documents and that such person disposed of the same in violation of this section, provided however, that such presumption shall be rebuttable by competent evidence.

(Ord. 04-17. Passed 12-14-04.)

#### 1088.06 SECURING AND COVERING LOADS.

- (a) <u>Securing Loads</u>. All vehicles used to transport any material along streets, roads, or highways of the County, shall be constructed, maintained, and loaded as to prevent such vehicle's contents from dropping, sifting, leaking, or otherwise escaping. This subsection shall not apply to any:
  - (1) Motor vehicle that is used exclusively for agricultural purposes as provided in § 46.2-698 of the Code of Virginia and is not licensed in any other state;
  - (2) Agricultural vehicle, tractor, or other vehicle exempted from registration and licensing requirements under State law;
  - (3) Motor vehicle transporting forest products, poultry, or livestock; or
  - (4) Public service company vehicle, pickup truck, or emergency snow removal equipment while engaged in snow removal operations.
- (b) <u>Transportation of Waste</u>. No person shall transport any litter or solid waste in an open or uncovered vehicle along the streets, roads, or highways of the County, unless the load is covered by a tarpaulin or other suitable cover in such manner as to contain the entire load. If any of the contents of the load shall be blown, spilled, fall, or become scattered in or upon any public way or place, such person shall immediately cause such contents to be gathered up and removed.
- (c) <u>Rebuttable Presumption</u>. When a violation of the provisions of this section has been observed by any person, and the matter dumped or disposed of has been ejected or removed from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting or disposing of such matter, provided however, that such presumption shall be rebuttable by competent evidence.
- (d) <u>Penalty</u>. Violation of this section shall constitute a traffic infraction punishable by a fine not to exceed two hundred fifty dollars (\$250.00). In lieu of imposition of a fine, the court may order the defendant to perform community service in litter abatement activities. (Ord. 04-17. Passed 12-14-04.)

# 1088.07 DUTY OF OWNERS AND OCCUPANTS.

- (a) <u>General Requirement</u>. It shall be the responsibility of each owner, agent, occupant, or lessee to keep his or her property free of litter. The owner, agent, occupant, or lessee of any property shall be responsible for removing litter accumulating on said property.
- (b) <u>Litter Prohibited</u>. No owner, agent, occupant, or lessee of any property shall allow the storage or accumulation of litter on the exterior of said property outside of a receptacle that is covered, secured, and maintained so as to prevent blowing, spilling, scattering, or leaking of the litter and waste contained therein, except that this requirement shall not apply to an area designated and approved by the County as a permitted disposal site.

- (c) Adjacent and Surrounding Areas. It shall be the responsibility of each proprietor and each operator of any business, industry, or institution to keep the adjacent and surrounding areas free of litter. These areas include, but are not limited to public and private sidewalks, roads, and alleys; grounds; parking lots; loading and unloading areas; and all vacant lots that are owned or leased by such establishment or institution. Removal of any litter shall be performed in accordance with this chapter.
- (d) <u>Sidewalks</u>. Each owner, agent, occupant, or lessee whose property faces on the sidewalks in the County or the strips between the streets and sidewalks shall be responsible for keeping such sidewalks and strips free of litter. Removal of any litter shall be performed in accordance with this chapter.

(Ord. 04-17. Passed 12-14-04.)

#### 1088.08 CONSTRUCTION SITES.

- (a) <u>Litter Prohibited</u>. It shall be unlawful for any owner or agent of a construction site, or any contractor on a construction site, to cause, permit, or allow the presence of litter on such site outside of a proper receptacle or to cause, permit, or allow litter or waste to be spilled, discharged, or blown by wind or water, except for the wind and water from hurricanes, tornadoes, and floods. It shall be the responsibility of the owner or agent of the property and each contractor performing work on the site to keep the property free of litter.
- (b) Receptacles Required. The owner, agent, or contractor in charge of a construction site shall furnish on such site receptacles sufficient to contain worker's litter and receptacles sufficient to contain all construction waste. All receptacles shall be conveniently available and maintained and secured or covered so as to prevent litter and waste from being spilled, discharged, or blown by wind or water, except for the wind and water from hurricanes, tornadoes, and floods. The number and capacity of receptacles should be determined by the primary contractor, but no less than one (1) receptacle for worker's litter and no less than one (1) receptacle for construction waste shall be placed at each construction site. Receptacles required under this subsection shall be not less than ten (10) gallons capacity. All receptacles shall be emptied as necessary, but not less frequently than weekly, except that receptacles used exclusively to contain construction waste shall be serviced with sufficient frequency to prevent spillage from overflow and to prevent offensive odors. All receptacles required under this subsection shall remain conveniently available on the site from the time construction activity commences until the construction activity ceases.
- (c) <u>Exclusion</u>. The requirement for receptacles in this section shall not apply to any construction site on which only repair or renovation of a building is taking place, provided that no litter or construction waste is placed, stored, or otherwise accumulated on the exterior of the property outside of a proper receptacle and any such receptacle is maintained in accordance with this chapter.

(Ord. 04-17. Passed 12-14-04.)

# 1088.09 LITTER RECEPTACLES AT PLACES FREQUENTED BY THE PUBLIC.

- (a) Receptacles Required. Every owner, occupant, tenant, or lessee in control of any property that is held out to the public as a place for assemblage, for the transaction of business or recreation, or as a public way shall provide adequate receptacles of sufficient number and size to contain all litter generated by those persons frequenting that public place. The number and size of the receptacles shall be determined by the owner, occupant, tenant, or lessee in control of any property, except that no less than one (1) receptacle shall be placed at each site. Receptacles shall be no less than ten (10) gallons in capacity and clearly marked and designed to prevent the escape of litter and waste. Any person owning or in control of any property at which receptacles are required by this chapter shall at his or her own expense be responsible for the procurement, placement, and maintenance of such receptacles as required by this chapter.
- (b) <u>Periodic Emptying of Receptacles</u>. All litter and solid waste shall be removed from receptacles as necessary, but not less frequently than weekly, and all receptacles shall be maintained in a sanitary and serviceable condition.
- (c) <u>Upsetting or Tampering with Receptacles</u>. No person shall cause the unauthorized removal, upsetting, mutilation or defacing of, or tamper with any receptacle, or cause the contents thereof to be spilled or to be strewn in or upon any public or private property.
- (d) <u>Penalty</u>. Any person who fails to place and maintain receptacles in the number and manner required under this section shall be subject to a fine of twenty-five dollars (\$25.00) for each day of violation.

(Ord. 04-17. Passed 12-14-04.)

# 1088.10 NOTICE OF VIOLATION; SUMMONS OR WARRANT.

- (a) Notice of Violation. The County may commence enforcement of any provision of this chapter by notifying in writing the owner, lessee, occupant, or person in responsible charge or in possession of a property or premises, of the existence of an unlawful condition on such property or premises. Such written notice shall be sent to the owner, lessee, occupant, or person in responsible charge or in possession of a property by registered or certified mail, or may be served by the sheriff, to the last known address of the owner as indicated in the County's current real estate tax assessment records. Such notice shall contain a description of the nature of the violation; any corrective action needed to be taken by such person to come into compliance with this chapter; and the time frame within which such corrective action shall be completed. The amount of time allowed to abate, correct, or eliminate the unlawful condition shall not exceed ten (10) days.
- (b) <u>Abatement Required</u>. Every owner, lessee, occupant, or person in responsible charge or in possession of a property or premises shall, upon written notice of an unlawful condition, abate, correct, and eliminate such condition within the timeframe required by such notice.

(c) <u>Summons or Warrant</u>. Sections 1088.05 and 1088.06 of this chapter may be enforced by summons or warrant.

(Ord. 04-17. Passed 12-14-04.)

# 1088.11 REMOVAL OF LITTER BY COUNTY.

- (a) <u>Abatement Required</u>. After receipt of a written notice of violation, it shall be unlawful for the owner, lessee, occupant, or person in responsible charge or in possession of a property or premises on which the unlawful condition exists to fail to abate, correct, or eliminate such condition within the timeframe as such written notice requires.
- (b) Removal by County. Ten (10) days after due notice is given to any owner, agent, occupant, operator, contractor in charge, or lessee of any property, business, industry, institution, or construction site to remove litter from the premises, the County is authorized to clean up such property, by use of County employees or by employing an agent of the County, and bill such owner or agent for the abatement costs thereof. If the bill has not been paid within thirty (30) days, execution may be issued by the County against the property for the abatement cost, and such execution shall constitute a lien on the property, on a parity with liens for unpaid taxes, until the claim has been satisfied. Execution of the notice to remove litter shall be in writing and shall be in the form of a registered or certified letter. Nothing in this section shall be deemed to bar the prosecution of any person for violation of this chapter.

(Ord. 04-17. Passed 12-14-04.)

# 1088.12 EQUITABLE REMEDIES.

In addition to the penalty provided in Section 1088.99, the Director may initiate injunction, mandamus, abatement, or any other appropriate action to prevent, enjoin, abate, or remove a violation of any of the provisions of this chapter.

(Ord. 04-17. Passed 12-14-04.)

#### 1088.99 PENALTY.

Except where otherwise noted, a violation of any provision of this chapter shall constitute a misdemeanor punishable by a fine of not less than two hundred fifty dollars (\$250.00) or more than two thousand five hundred dollars (\$2,500.00) or confinement in jail for not more than 12 months, or both such fine and imprisonment. In lieu of imposition of a fine or confinement in jail, the court may order the defendant to perform community service in litter abatement activities. (Ord. 04-17. Passed 12-14-04.)